

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TEREK RAHEEM DOWNING)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-568-SLR
)	
CORRECTIONAL OFFICER ART)	
DAVIS, CORRECTIONAL OFFICERS)	
and STAFF – to be named later,)	
FIRST CORRECTIONS MEDICAL,)	
INC., WARDEN THOMAS CARROLL,)	
M. JANE BRADY, DELAWARE)	
DEPARTMENT OF CORRECTIONS and)	
DELAWARE DEPARTMENT OF COURT)	
and TRANSIT,)	
)	
Defendants.)	

STATE DEFENDANTS' MOTION TO DISMISS

State Defendants Delaware Department of Correction, Delaware Department of Court and Transit, Delaware Correctional Center, Warden Thomas Carroll and M. Jane Brady, by and through undersigned counsel, hereby move this Honorable Court pursuant to Fed. R. Civ. P. 12 (b) (6) to enter an Order dismissing Plaintiff's complaint for failure to state a claim upon which relief may be granted. In support of this Motion, State Defendants offer a Memorandum of Points and Authorities filed simultaneously herewith.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Ophelia M. Waters
Ophelia M. Waters, I.D. No. 3879
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(302) 577-8400

Dated: March 6 2006

Attorney for Department of
Correction

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Defendants.)	

ORDER

WHEREAS, plaintiff's suit is barred by the Eleventh Amendment immunity and;

WHEREAS, plaintiff has failed to state a claim for which relief may be granted, and;

WHEREAS, plaintiff has failed to allege specific conduct to show that Carroll and Brady personally deprived him of his Constitutional rights, and;

WHEREAS, defendants are immune from liability under the Doctrine of *Respondeat Superior*, and;

WHEREAS, defendants have filed an appropriate Motion;

IT IS ORDERED this _____ Day of _____, 2006, that defendants' Motion to Dismiss, is hereby **GRANTED**.

J.